

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEVADA
3

4 United States of America,
5 Plaintiff
6 v.
7 Everly James,
8 Defendant

Case No.: 2:17-cr-00180-JAD-PAL

**Order Adopting Reports and
Recommendations, Denying Everly
James's Motions to Dismiss Indictment
and Suppress Evidence**

[ECF Nos. 203, 267, 335, 359, 380]

9 Defendant Everly James is an alleged co-conspirator in an organized rental-car-theft ring.
10 James is accused of producing false ownership documents to assist in the criminal enterprise, and
11 one of his bases of operations was a hotel room at a Red Roof Inn in Arizona. James moved to
12 suppress evidence obtained from that hotel room and any fruits of that search, arguing that the
13 search warrant was the product of perjury.¹ Without conceding the merits of the suppression
14 motion, the Government represented that it wouldn't introduce any evidence obtained from that
15 search in its case-in-chief.² James then moved to dismiss the indictment against him, arguing
16 that, if the hotel evidence is excluded, then there is no other evidence to link him to the
17 enterprise, and the grand jury's indictment is based on perjury.³

18 **A. Dismissal Motion [ECF No. 267]**

19 Magistrate Judge Peggy Leen reviewed James's suppression and dismissal motions and
20 recommends that the suppression motion be denied as moot⁴ and the dismissal motion be denied
21 on its merits.⁵ Judge Leen's recommendation on the dismissal motion was entered on May 4,

22 _____
23 ¹ ECF No. 203.

24 ² ECF No. 254.

25 ³ ECF No. 267.

26 ⁴ ECF No. 359. Judge Leen initially denied the suppression motion as moot, ECF No. 272, but
27 then vacated that order and issued an amended order recommending that I deny it as moot. ECF
28 No. 359.

⁵ ECF No. 335.

1 2018, making May 18, 2018, the deadline to file objections.⁶ That deadline was extended to
2 June 1, 2018.⁷ That extended deadline came and went, and James filed no objection. “[N]o
3 review is required of a magistrate judge’s report and recommendation unless objections are
4 filed.”⁸ So, I accept and adopt Magistrate Judge Leen’s recommendation and deny James’s
5 motion to dismiss.

6 **B. Suppression Motion [ECF No. 203]**

7 Judge Leen’s amended order and recommendation on the suppression motion was entered
8 on June 6, 2018, making June 20, 2018, the deadline to file objections.⁹ James objects to that
9 recommendation because the evidence was suppressed by the Government’s concession and not
10 as a result of a *Franks* hearing.¹⁰ James’s four-line objection identifies no error and offers no
11 legal basis to reject Judge Leen’s recommendation and merely states: “Mr. James has requested
12 that [his counsel] file an Objection to the Report and Recommendation and requests this Court to
13 hold a Franks Hearing.”¹¹ Because the Government has already agreed not to offer any evidence
14 or fruits obtained from that hotel-room search, there is no reason to hold a *Franks* hearing as
15 James already has the relief that a *Franks* hearing might afford. I therefore accept and adopt
16 Magistrate Judge Leen’s recommendation and deny James’s suppression motion as moot.

17 Accordingly, IT IS HEREBY ORDERED THAT Magistrate Judge Leen’s reports and
18 recommendations **[ECF Nos. 335, 359] are ACCEPTED and ADOPTED.** James’s motion to
19 dismiss indictment **[ECF No. 267] is DENIED.** James’s objection to Magistrate Judge Leen’s
20 . . .

22 ⁶ *Id.*

23 ⁷ ECF Nos. 346 (stipulation for extension of time), 350 (order).

24 ⁸ *Schmidt v. Johnstone*, 263 F. Supp. 2d 1219, 1226 (D. Ariz. 2003); *see also United States v.*
25 *Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003).

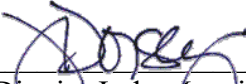
26 ⁹ ECF No. 359.

27 ¹⁰ ECF No. 380.

28 ¹¹ *Id.*

1 recommendation [ECF No. 380] is **OVERRULED**. And James's motion to suppress [ECF No.
2 **203**] is **DENIED** as moot.

3 Dated: July 20, 2018

4 
5 U.S. District Judge Jennifer A. Dorsey